

**Notice of Allowability**

Application No.

10/016,380

Applicant(s)

HAYTER ET AL.

Examiner

Barry W. Taylor

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/9/05.
2. ☒ The allowed claim(s) is/are 21-37 renumbered as claims 1-17.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Barry W. Taylor*  
Primary Examiner  
Art Unit 2643

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Claims 21-37 renumbered as claims 1-17 are allowed.
2. The following is an examiner's statement of reasons for allowance:

Prior art of record fails to teach or fairly suggest an apparatus and method for identifying the source of a broadcast signal, comprising: receiving calls from one or more telephones and digitizing all or part of the audio-frequency content of the received telephone calls; receiving broadcast signals from one or more known sources at substantially the same time as the received telephone calls and digitizing all or part of the audio-frequency content of the received broadcast signals; comparing the digitized contents of the received telephone calls to the digitized contents of the received broadcast signals to determine the degree of match between the received telephone calls and the received broadcast signals; sensing the presence of broadcast signals in the received telephone calls based on the degree of match and recognizing the source of matching broadcast signals based on the identities of the known broadcast sources as recited in independent claims 21 and 32 (renumbered as claims 1 and 12) and depicted in figure 1.

Prior art of record (Wang et al --- 2004/0199387) teaches a method and system for purchasing pre-recorded music wherein cell phone used to capture short sample of music from car stereo enabling the listener to purchase at a location that is remote from retail locations. However, Wang does not identify and cannot identify the broadcast

source of the identified audio material. That is, knowing what was broadcast does not necessarily tell how and when it was broadcast. For example, numerous stations in many areas specialize in broadcasting "oldies", such as the well-known "Hotel California" but successful identification of "Hotel California" provides no information concerning the exact broadcast station (see paper dated 7/17/05, starting at bottom of page 11 and continuing to page 12).

Prior art of record ("A Star is born nationally, seeking stellar CD sales (StarCD is expanding its service nationwide that identifies musing being played on the radio)", Hollywood Reporter, Wilkerson Daily Co. Hollywood CA, US. Vol. 35 no. 13, November 1999, page 1, Paul Bond----hereinafter Bond) teaches a listener hears a song on the radio she likes and dials a StarCD phone number on her cell phone and uses the phone keypad to type in the station she's listening to. Bond does not receive broadcast signals from nearby radio stations to be used to compare with received telephone calls having audio-frequency content so as to determine which radio station the caller currently listening to because Bond requires the listener to type in the station that they are listening to.

Prior art of record (Atkinson 2004/0048637) teaches mobile phone used to capture nearby radio broadcast to identify which station the user is listening to (see paragraph 0032 and figure 1). However, the current application claims priority back to 2000 and Atkinson only claims priority back to 2002.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor, telephone number (571) 272-7509, who is available Monday-Friday, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached at (571) 272-7499. The central facsimile phone number for this group is **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Centralized Delivery Policy: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the central fax number (571-273-8300).



Barry W. Taylor  
Primary Examiner  
Technology Center 2600  
Art Unit 2643